

TREASURY - GENERAL

**STATE INVESTMENT COUNCIL
Commercial Paper**

Proposed Amendments: N.J.A.C. 17:16-31.2, 31.3 and 31.5

Authorized By: State Investment Council, Peter A. Langerman, Director,
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Proposal Number: PRN 2004-120

Submit comments by June 4, 2004 to:

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The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 17:16-31.2, 31.3 and 31.5 eliminate the Approved List of Commercial Paper Issuers; add the P-1 rating assigned by Moody's Investors Service to commercial paper issuers to investments that would be eligible for purchase by the Division; permit the Division to retain any investments whose rating may fall below the criteria subsequent to purchase; and permit the purchase of commercial paper if only one rating is available from either of the major rating agencies.

Given the thousands of individual investments comprising the Approved Lists, it has become unrealistic to expect that Council members will have extensive knowledge of all of these investments. Eliminating the Approved Lists at N.J.A.C. 17:16-31.2 (b), while at the same time providing criteria for selection of individual investments, gives

recognition to the fact that the Council relies on the Division of Investment to have this in-depth knowledge and to select particular investments. Since the Division of Investment will be reporting to the Council on investment activities, the Council shall continue to be able to fulfill its role of monitoring of investments contained in the various portfolios.

Pursuant to the proposed amendments at N.J.A.C. 17:16-31.2 (b), the Division of Investment is authorized to purchase only investments that meet the requirements set forth in the subchapter. However, there may arise, from time to time, certain unique circumstances where the Division wishes to purchase an investment that does not meet the requirements set forth in the subchapter. In such event, the proposed amendments provide that the Division could present justification to the Council, and the Council would have the authority to approve the purchase on a case-by-case basis.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

There shall be no social impact from the proposed amendments, although the long term economic effects could benefit New Jersey taxpayers.

Economic Impact

A broader range of investment opportunities could provide higher returns and greater diversification for the State-administered funds.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the Division of Investment are under the auspices of the State Investment Council, and are not subject to any Federal requirements or standards.

Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the amendments to these rules.

Agriculture Industry Impact

The proposed amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no requirements on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendments are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 31. COMMERCIAL PAPER

17:16-31.2 Permissible investments

(a) Subject to the maturity limitations contained in this subchapter, the Director may invest and reinvest the moneys of any fund in "prime" rated commercial paper which is not in default as to either principal or interest when acquired and which has been issued by a company incorporated within and transacting business within the United States. **Subsequent to purchase, if the rating falls below "prime," the investment does not have to be sold.**

[(b) The Director shall submit a list of issuers of commercial paper to the Council for its approval. Such list may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved List of Issuers of Commercial Paper."]

(b) Notwithstanding the restrictions contained in this subchapter, the Council may approve the purchase of commercial paper on a case-by-case basis.

17:16-31.3 [All funds] **Limitations**

The Director may purchase "prime commercial paper" for any fund, including the State of New Jersey Cash Management Fund, providing the maturity purchased does not exceed 270 days.

17:16-31.5 Legal papers

Prior to any commitment to purchase commercial paper, the Director shall obtain a certificate or other evidence that such commercial paper is rated A-1 by "Standard & Poor's Commercial Paper Division[.]" **and P-1 by Moody's. If only one rating is available, the investment is considered to meet the requirements of this subchapter.**